Supreme Court, U.S.
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No. 121, Original

In The

Supreme Court of the United States

October Term, 1993

STATE OF LOUISIANA,

Plaintiff,

v.

STATE OF MISSISSIPPI, et al.,

Defendants.

ANSWER OF DEFENDANT STATE OF MISSISSIPPI

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December, 1993

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ANSWER OF DEFENDANT STATE OF MISSISSIPPI

The State of Mississippi respectfully files this Answer to the Complaint filed by the State of Louisiana ("Louisiana"):

JURISDICTION

Complaint ¶I: The original jurisdiction of this Court is invoked under Article III, Section 2, Clause 2 of the Constitution of the United States and Par. (a) Section 1251, Title 28, United States Code Annotated.

ANSWER: ADMITTED.

Complaint ¶II: The State of Louisiana was admitted into the Union of the United States of

America by the Act of Congress found in Chapter 50 of the United States Statutes at Large, vol. 2, page 701, approved April 8, 1812, and therein the boundaries of the said State of Louisiana, in the preamble of said Act, were described as follows:

"Whereas, the representatives of the people of all that part of the territory or country ceded, under the name of 'Louisiana' by the treaty made at Paris, on the thirtieth day of April, one thousand eight hundred and three (8 Stat. at L. 200), between the United States and France, contained within the following limits, that is to say: 'Beginning at the mouth of the river Sabine; thence, by a line drawn along the middle of said river, including all islands, to the thirty-second degree of latitude; thence due north to the northernmost part of the thirty-third degree of north latitude; thence along the said parallel of latitude to the river Mississippi; thence down the said river to the river Iberville; and from thence along the middle of the said river and lakes Maurepas and Pontchartrain, to the gulf of Mexico; thence bounded by the said gulf to the place of beginning, including all islands within three leagues of the coast . . . ' "

ANSWER: ADMITTED.

Complaint ¶III: By the Act of Congress found in the United States at Large, vol. 2, p. 708, chap. 57, approved April 14, 1812, additional territory was added to the then-existing State of Louisiana, which additional territory was described in the following language:

"Beginning at the junction of the Iberville with the river Mississippi; thence, along the

middle of the Iberville, the river Amite, and of the lakes Maurepas and Pontchartrain to the eastern mouth of the Pearl River; thence up the eastern branch of Pearl River to the thirty-first degree of north latitude; thence along the said degree of latitude to the river Mississippi; thence down the said river to the pace [sic] of beginning, shall become and form a part of the said state of Louisiana . . . "

ANSWER: ADMITTED.

Complaint ¶IV: The territory lying adjacent to, and to the eastward of Louisiana, is the State of Mississippi, which latter state was admitted into the Union of the United States of America by the Act of Congress, approved March 1, 1817, 3 Stat. 348 (U.S. Statutes at Large, vol. 3, chap. 23, page 348), whereby the inhabitants of the western part of the then-Mississippi territory were authorized to form for themselves a state constitution and to be admitted into the Union, the boundaries of the then-to-be-created state being described as follows:

"Beginning on the river Mississippi at the point where the southern boundary line of the State of Tennessee strikes the same; thence east along the said boundary line to the Tennessee River; thence up the same to the mouth of Bear Creek; thence by a direct line to the northwest corner of the county of Washington (Alabama); thence due south to the gulf of Mexico; thence westwardly, including all the islands within six leagues of the shore to the most eastern junction of the Pearl River with Lake Borgne; thence up

said river to the thirty-first degree of north latitude; thence west along the said degree of latitude to the Mississippi River; thence up the same to the beginning."

ANSWER: ADMITTED.

Complaint ¶V: The effect of this legislation, as to the eastern boundary of the State of Louisiana, was to retain the channel or thread, sometimes known as the thalweg, of the Mississippi River as the original eastern boundary, as far south as the 31st degree of north latitude. Such original eastern boundary from the northeast tip of the State of Louisiana to said 31st degree of north latitude is common with the State of Mississippi.

ANSWER: Mississippi admits that the original eastern boundary of the State of Louisiana was as stated in Paragraph V of the Complaint. Mississippi denies the remaining allegations of Paragraph V.

Complaint ¶VI: Under the law of Louisiana, the State of Louisiana owns the bed of the Mississippi River to the boundary line of the States of Louisiana and Mississippi. Under the law of the State of Mississippi, the riparian owner owns to the boundary line between said states. This Supreme Court of the United States has original jurisdiction of suits to determine the boundaries between states, and of parties adversely asserting title to the property of a state.

ANSWER: Mississippi admits that Paragraph VI of the Complaint is a general statement of the law.

Complaint ¶VII: Until recently the primary interest in the determination of the exact boundary line in the Mississippi River between the

two states has been as to navigation and fishing rights, and to masses of land where an avulsion has taken place.

ANSWER: DENIED.

Complaint ¶VIII: On the 29th day of July, 1986, there was filed in the United States District Court of the Southern District of Mississippi, Western Division, a Complaint entitled *Julia Donelson Houston, et al, vs. Ruth M. Thomas, et al, Civil Action No. W86-0080(B).* This Complaint to Remove Cloud filed against Louisiana residents and attacking the ownership of property of the State of Louisiana, raises the issue in this case as to the true location of the boundary between the States of Louisiana and Mississippi common to the Parish of East Carroll, Louisiana, and the County of Issaquena, Mississippi.

ANSWER: Mississippi admits that on the 27th day of July, 1986, there was filed in the United States District Court of the Southern District of Mississippi, Western Division, a Complaint entitled "Julia Donelson Houston, et al, vs. Ruth M. Thomas, et al, Civil Action No. W86-0080(B)" and that said Complaint to Remove Cloud was filed against Louisiana residents and others. Mississippi denies the remaining allegations of Paragraph VIII. Pleading further, Mississippi would show that the Complaint did not name the State of Louisiana as a defendant and that Louisiana intervened asserting title.

Complaint ¶IX: In the said action presently pending in the United States District Court as aforesaid, complainants claim ownership of a portion of lands involved in this boundary dispute contrary to the continued assertion of jurisdiction, dominion and control of said area by

the State of Louisiana under its inherent sovereignty.

ANSWER: Mississippi admits that in the said action presently pending in the United States District Court as aforesaid, the Houston defendants claim ownership of all of the lands involved in this boundary dispute, Stack Island or Island No. 94 and all accretions thereto (hereinafter Stack Island). Mississippi denies the remaining allegations of Paragraph IX of the Complaint. Pleading further, Mississippi denies that Louisiana has asserted continuing jurisdiction, dominion and control over said area under its inherent sovereignty or otherwise, and pleading further, Mississippi would show that the entirety of the lands involved in this action are wholly located within the State of Mississippi.

Complaint ¶X: The above referenced action filed herein is styled as a Complaint to Remove Cloud and identifies numerous plaintiffs as the owners in fee simple of a certain tract of land purportedly lying in Mississippi, as against numerous defendants as residents and domiciliaries of the State of Louisiana.

ANSWER: ADMITTED.

Complaint ¶XI: Complainants in the district court recite their title as having derived from patents of the United States of America and subsequently recorded in Mississippi.

ANSWER: ADMITTED.

Complaint ¶XII: Complainants allege that Stack Island was affected by the divided flows of the Mississippi River into the natural erosion

and accretion processes of the river, gradually migrating southward and westward.

ANSWER: ADMITTED.

Complaint ¶XIII: The State of Louisiana and the Lake Providence Port Commission, a political subdivision of the state, intervened in the federal district court action in June, 1987, asserting that their rights arise under the Constitution of the United States and an Act of Congress approved April 8, 1812, admitting the State of Louisiana into the Union of the United States of America, which act is found at 2 Stat. 701 (U.S. Statutes at Large, vol. 2, chap. 50, p. 701).

ANSWER: Mississippi admits that the State of Louisiana and the Lake Providence Port Commission intervened in the federal district court action in June, 1987, asserting that their rights arise under the Constitution of the United States and an Act of Congress approved April 8, 1812, admitting the State of Louisiana into the United States of America, which act is found at 2 Stat. 701 (U.S. Statutes at Large, vol. 2, chap. 50, p. 701). Mississippi denies the remaining allegations of Paragraph XIII. Pleading further, Mississippi denies that Louisiana or Lake Providence Port Commission have any rights whatsoever in the subject property arising under the Constitution or any act of Congress or otherwise.

Complaint ¶XIV: The original complainants responded to the intervention and thereafter the State of Louisiana and the Lake Providence Port Commission filed a Third-Party Complaint against the State of Mississippi. The State of Mississippi answered the Third-party Complaint.

Thereafter, the case followed the course set forth in detail in paragraphs 8 through 12 of the attached motion for leave to file a bill of complaint, having been rejected by this Court twice on earlier motions for original jurisdiction, then tried, appealed and heard on certiorari. This action is now in nearly identically the same posture as when originally commenced by private plaintiffs suing other private defendants in the District Court for the Southern District of Mississippi. The State of Louisiana is still seeking to determine its true legal boundary with the State of Mississippi in the vicinity of the disputed lands, which it owns.

ANSWER: Mississippi admits the first paragraph of Paragraph XIV of the Complaint. Mississippi admits that the federal district court case followed the chronology set forth in Paragraphs 8 through 12 of the Motion of Louisiana for Leave to File Bill of Complaint. Mississippi denies the remaining allegations of Paragraph XIV.

Complaint ¶XV: The real question in dispute between plaintiff and defendants is the true location of the boundary line between the State of Louisiana and the State of Mississippi, which is dependent upon a determination of the location of both a frozen thalweg and the live thalweg, which follows the course of the Mississippi River itself as its bed and channel move with the gradual processes of accretion and erosion.

ANSWER: Mississippi admits that a dispute is the location of the boundary line between the State of Louisiana and the State of Mississippi. Mississippi denies the remaining allegations of Paragraph XV. Pleading further,

Mississippi would show that the Rule of the Thalweg may be superseded by the Doctrine of Acquiescence as a result of the acts of the State of Mississippi of dominion, control and sovereignty over the lands in dispute coupled with the failure of the State of Louisiana to assert claims of right or jurisdiction.

Complaint ¶XVI: However, the determination of this river boundary also involves an interpretation of the acts of Congress setting forth the boundaries and determination of the boundaries between said two states, as well as the equal footing doctrine applicable to the states of the United States.

ANSWER: Mississippi admits that the determination of the boundary between the states involves interpretations of the Acts of Congress and the Equal Footing Doctrine. Mississippi denies the remaining allegations of Paragraph XVI of the Complaint. Pleading further, Mississippi would show that the law regarding the interpretation of the Acts of Congress and the Equal Footing Doctrine concerning the determination of the boundary between the State of Louisiana and the State of Mississippi is well settled and that this Court should find that the entirety of the lands involved in this action are wholly located within the State of Mississippi.

Complaint ¶XVII: Further, the Treaty of Peace concluded between the United States and Great Britain, September 3, 1783, 8 Stat. 80, is also involved in this controversy, including an interpretation thereof as it affects or may affect such boundary between the State of Mississippi and the State of Louisiana, which can only be

made pursuant to the Constitution of the United States and federal law.

ANSWER: Mississippi admits that an interpretation of the said Treaty of Peace may affect the boundary between the states. Mississippi denies the remaining allegations of Paragraph XVII of the Complaint. Pleading further, Mississippi would show that the interpretation of the said Treaty of Peace regarding the boundary between the State of Mississippi and the State of Louisiana is well settled and that this Court should find that the entirety of the lands involved in this action are wholly located within the State of Mississippi.

Complaint ¶XVIII: Consequently, in the necessary and essential exercise of sovereign rights, the exact location of the boundary line between Mississippi and Louisiana in the area at controversy becomes of major and substantial significance to the respective states, in view of the great value of the lands and water bottoms for navigational, hunting, fishing, timber and recreational purposes, as well as the potential for the production of oil, gas and other minerals. Heretofore, it has not been necessary to determine with preciseness the exact location of such boundary line. This controversy now makes such a determination essential to the two sovereign states, as well as to their citizens.

ANSWER: Mississippi admits that the boundary line between the State of Mississippi and the State of Louisiana in the area in controversy is a matter of substantial significance and such a determination is essential to the two sovereign states. Mississippi denies the remaining allegations of Paragraph XVIII of the Complaint.

Complaint ¶XIX: The property rights, the sovereign rights and the sanctity of the boundary between the States of Louisiana and Mississippi are inextricably involved in the litigation which commenced this controversy, thus instituted and pending in the United States District Court for the Western Division of the Southern District of the State of Mississippi, and said Court is not the forum proper to such determinations. Nor is the State of Louisiana required to submit its title to said Court, nor should it be.

ANSWER: Mississippi admits that this Court is a proper forum for determination of the issues in this litigation. Mississippi denies the remaining allegations of Paragraph XIX of the Complaint.

Complaint ¶XX: The decision of the Supreme Court of the United States herein will be conclusively binding on all private parties and it alone has the power to fix and determine the boundary lines herein described. The suit of *Julia Donelson Houston, et al vs Ruth M. Thomas, et al,* should be stayed by Order of this Court until a final judgment herein can be had, and application is hereby made by the State of Louisiana for an order to be issued by this Court, directed to the United States District Court, Western Division of the Southern District of Mississippi, staying all proceedings in said suit.

ANSWER: Mississippi admits that the decision of this Court will be binding on Mississippi and that this Court alone has the power to fix and determine the state boundary line. Mississippi denies the remaining allegations of Paragraph XX of the Complaint.

Complaint ¶XXI: The jurisdiction of the Supreme Court of the United States in boundary disputes between States is exclusive and original and, accordingly, it is appropriate that the suit of *Julia Donelson Houston, et al vs. Ruth M. Thomas, et al*, be stayed and all parties thereto be served with a copy of the Stay Order herein applied for, and be given the opportunity to assert such interests as they may have in this action.

ANSWER: Mississippi admits that the jurisdiction of the Supreme Court of the United States in boundary disputes between states is exclusive and original. Mississippi denies the remaining allegations of Paragraph XXI of the Complaint. Pleading further, Mississippi would show that this Court has denied the Request for Stay submitted by the State of Louisiana.

FIRST AFFIRMATIVE DEFENSE

The State of Mississippi has, through long continued acts of assertion of sovereignty and jurisdiction and the exercise of dominion and control over the land commonly known as Stack Island and has acquired sovereignty over and jurisdiction of Stack Island and all lands that are the subject of this controversy, and said lands lie within the territorial limits of the State of Mississippi without regard to the location of the thalweg by virtue of the Doctrine of Acquiescence. Mississippi has continuously assessed and collected taxes on the subject property for more than 100 years. Louisiana has never assessed or collected taxes on Stack Island. Township surveys prepared by the United States General Land Office in 1826-27 have shown Stack

Island as lying within the State of Mississippi. The General Land Office of the United States has further recognized Stack Island as being located within the State of Mississippi by virtue of a survey made in 1881 pursuant to an Act of Congress dated April 24, 1820, entitled "An Act Making Further Provision for the Sale of the Public Lands" and the acts supplemental thereto and by United States patents issued to Stephen B. Blackwell of Issaquena County, Mississippi, describing the property as being located within the State of Mississippi. Through its courts and law enforcement agencies, Mississippi has exercised sovereignty and jurisdiction over controversies involving ownership of Stack Island and criminal activities on the island. Additionally, the general reputation in the community is that Stack Island is located in the State of Mississippi.

SECOND AFFIRMATIVE DEFENSE

At the respective times that Louisiana and Mississippi were admitted as states to the United States, Stack Island lay on the east or Mississippi side of the boundary thalweg of the Mississippi River. Alternatively, if Stack Island was not in existence at the time of the admission of either or both of the states, Stack Island, when formed, was formed on the east or Mississippi side of the boundary thalweg of the Mississippi River.

THIRD AFFIRMATIVE DEFENSE

Under the law as established by this Court, an island once within the jurisdiction of a particular state remains within the jurisdiction of that state without regard to

changes in the location of the navigation course of the river in which such island is situated.

FOURTH AFFIRMATIVE DEFENSE

Stack Island, Mississippi, has been clearly identifiable and traceable from early maps of the Mississippi River and subsequent aerial photographs as a single identifiable land mass for a period of more than 150 years.

WHEREFORE, PREMISES CONSIDERED, the State of Mississippi respectfully prays:

1. That the Court appoint a Special Master in this original action;

2. That the Court grant the defendant, State of Mississippi, leave to file a counterclaim, as hereinafter set forth, against the State of Louisiana regarding the subject matter of this litigation;

3. That the prayer for relief contained in the Complaint be denied in its entirety;

4. That the Court, pursuant to this prayer and the prayer of the counterclaim for which leave to file is sought hereinafter, adjudicate that the subject lands are located wholly within the territorial boundaries of the State of Mississippi;

5. That all costs incurred in this original action be assessed against the plaintiff, State of Louisiana; and

6. That the Court grant such other and further relief as may be proper, equitable and just.

Respectfully submitted,

MIKE MOORE,
Attorney General
State of Mississippi

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Defendants.

MOTION FOR LEAVE TO FILE COUNTERCLAIM

COMES NOW the State of Mississippi, defendant in the above styled and numbered cause, by and through Mike Moore, the Attorney General of the State of Mississippi, and files this its Motion for Leave to File Counterclaim against the plaintiff, State of Louisiana, and in support hereof respectfully states as follows:

1. A portion of the boundary between the State of Louisiana and the State of Mississippi, common to East Carroll Parish, Louisiana, and Issaquena County, Mississippi, is in dispute in the above styled and numbered cause.

2. This Court has now taken jurisdiction of the boundary dispute between the State of Louisiana and the State of Mississippi upon the allegations of the Complaint filed herein by the plaintiff, the State of Louisiana.

3. In order for this Court to render a final adjudication in this litigation predicated upon not only the factual allegations of the plaintiff, the State of Louisiana, but also upon the factual contentions of the defendant, the State of Mississippi, it is necessary for the State of Mississippi to be allowed to set forth its position not only regarding the allegations of the plaintiff, but also the allegations in support of defendant's claim that the boundary between the State of Mississippi and the State of Louisiana along the reach of the Mississippi River in question is not located as charged by the State of Louisiana.

WHEREFORE, PREMISES CONSIDERED, the State of Mississippi respectfully prays that this Honorable Court grant leave for defendant, the State of Mississippi, to file its Counterclaim against the plaintiff, the State of Louisiana, as hereinafter set forth, and if mistaken in the relief for which prayed in this Motion, the State of Mississippi

prays for such other, further, or more general relief as the Court may deem just and proper.

Respectfully submitted,

MIKE MOORE,
Attorney General
State of Mississippi

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COUNTERCLAIM

COMES NOW the State of Mississippi, defendant-counterclaimant in the above styled and numbered cause, by and through Mike Moore, the Attorney General of the State of Mississippi, having fully answered the Complaint filed herein by the State of Louisiana, and files its Counterclaim against the plaintiff-counterdefendant, the State of Louisiana, and in support hereof would show unto the Court the following:

1. The State of Mississippi makes parties hereto the State of Louisiana and the following citizens of the State of Louisiana:

The Honorable Edwin Edwards
Governor of the State of Louisiana
State Capitol
Baton Rouge, Louisiana

The Honorable Richard P. Ieyoub
Attorney General
State of Louisiana
Baton Rouge, Louisiana

2. The original jurisdiction of this Court is invoked in this Counterclaim under the Constitution of the United States, Article III, Section 2, and 28 United States Code, Section 1251, Par. (a).

3. The State of Mississippi was admitted into the Union of the United States of America by Act of Congress found in 3 Statutes at Large 348, Ch. 23 (March 1, 1817), the boundaries of the state being described as follows:

> "Beginning on the river Mississippi at the point where the southern boundary line of the State of Tennessee strikes the same; thence east along the said boundary line to the Tennessee River; thence up the same to the mouth of Bear Creek; thence by a direct line to the northwest corner of the county of Washington (Alabama); thence due south to the gulf of Mexico; thence westwardly, including all the islands within six leagues of the shore to the most eastern junction of the Pearl River with Lake Borgne; thence up said river to the thirty-first degree of north latitude; thence west along the said degree of latitude to the Mississippi River; thence up the same to the beginning."

4. The State of Louisiana was admitted into the Union of the United States of America by the Act of Congress found in Chapter 50 of the United States Statutes at Large, vol. 2, page 701, approved April 8, 1812, and therein the boundaries of the said State of Louisiana, in the preamble of said Act, were described as follows:

> "Whereas, the representatives of the people of all that part of the territory or country ceded, under the name of 'Louisiana' by the treaty made at Paris, on the thirtieth day of April, one thousand eight hundred and three (8 Stat. at L. 200), between the United States and France, contained within the following limits, that is to say: 'Beginning at the mouth of the river Sabine; thence, by a line drawn along the middle of said river, including all islands, to the thirty-second degree of latitude; thence due north to the northernmost part of the thirty-third degree of north latitude; thence along the said parallel of latitude to the river Mississippi; thence down the said river to the river Iberville; and from thence along the middle of the said river and lakes Maurepas and Pontchartrain, to the gulf of Mexico; thence bounded by the said gulf to the place of beginning, including all islands within three leagues of the coast . . . ' "

By the Act of Congress found in the United States at Large, vol. 2, p. 708, chap. 57, approved April 14, 1812, additional territory was added to the then-existing State of Louisiana, which additional territory was described in the following language:

> "Beginning at the junction of the Iberville with the river Mississippi; thence, along the middle of the Iberville, the river Amite, and of the lakes Maurepas and Pontchartrain to the eastern mouth of the Pearl River; thence up the eastern branch of Pearl River to the thirty-first degree of north latitude; thence along the said degree of latitude to the river Mississippi; thence down the said river to the place of beginning, shall become and form a part of the said state of Louisiana . . . "

5. The westerly boundary of the State of Mississippi and the easterly boundary of the State of Louisiana in the reach of the Mississippi River adjacent to Stack Island or Island No. 94 and all accretions thereto (hereinafter Stack Island), more particularly described as follows, to-wit:

The west bounds of Stack Island, Mississippi, or Island No. 94, by geodetic positions of the vertexes, numbered Point 1 through Point 21, is described as follows:

Beginning at Pt. 1 at North Latitude 32° 49' 25" and West Longitude 91° 09' 27", said Pt. 1 being at the foot of the West bounds of Baleshed Towhead, Mississippi and the head of the West bounds of Stack Island, Mississippi, which was fixed along the thalweg of the abandoned Mississippi River Channel in about 1954, thence Southward with the fixed thalweg (marking the Mississippi-Louisiana boundary) in the abandoned sector of Lake Providence Bend channel at Pt. 2, Latitude 32° 49' and Longitude 91° 09' 34"; thence to Pt. 3, Latitude 32° 48' 47"and Longitude 91° 09' 37"; thence to Pt. 4, Latitude 32° 48' 30" and Longitude 91° 09' 39"; thence to Pt. 5, Latitude 32° 48' and Longitude 91° 09' 47"; thence to Pt. 6, Latitude 32° 47' 18" and Longitude 91° 09' 51"; thence to Pt. 7, Latitude 32° 47' 6" and Longitude 91° 09' 54"; thence to Pt. 8, Latitude 32° 47' and Longitude 91° 09' 59"; thence to Pt. 9, Latitude 32° 46' 50" and Longitude 91° 10' 7"; thence to Pt. 10, Latitude 32° 46' 35" and Longitude 91° 10' 14"; thence to Pt. 11, Latitude 32° 46' 20" and Longitude 91° 10' 16"; thence to Pt. 12, Latitude 32° 46' and Longitude 91° 10' 18"; thence to Pt. 13, Latitude 32° 45' 45" and Longitude 91° 10' 20"; thence to Pt. 14, Latitude 32° 45' 30" and Longitude 91° 10' 18"; thence to Pt. 15, Latitude 32° 45' 15"

and Longitude 91° 10' 12"; thence to Pt. 16, Latitude 32° 45' and Longitude 91° 10' 01"; thence to Pt. 17, Latitude 32° 44' 45" and Longitude 91° 09' 49"; thence to Pt. 18, Latitude 32° 44' 30" and Longitude 91° 09' 38"; thence to Pt. 19, Latitude 32° 44' 23" and Longitude 91° 09' 30"; thence to Pt. 20, Latitude 32° 44' 15" and Longitude 91° 09' 18"; thence to Pt. 21, Latitude 32° 44' 07" and Longitude 91° 09'; thence to Pt. 22, Latitude 32° 44' and Longitude 91° 08' 44"; said Pt. 21 marks 1975 downstream bounds of Stack Island fixed thalweg (Fixed Interstate Mississippi-Louisiana boundary) and the beginning of the 1975 live thalweg (Live Interstate, Mississippi-Louisiana boundary).

6. From the time of its formation, Stack Island and its accretions have been bounded on the west by the Mississippi River channel thalweg, the interstate boundary between Mississippi and Louisiana, and bounded on the east by the chute channel, which has a bed that lies entirely within the State of Mississippi.

7. Stack Island, Mississippi, was subject to the divided flows of the Mississippi River and to the natural erosions and accretions processes of this dynamic alluvial river, and was gradually, progressively and imperceptibly enlarged southward and westward until it reached its present location.

8. After about the year 1908, the river gradually enlarged the bounding chute channel on the east. Further, in about the year 1913, the enlarging Mississippi chute channel was adopted for navigation.

9. After about the year 1925, the bounding Mississippi chute channel continued to enlarge and flows

increased therein with corresponding lessening of flows in the Mississippi-Louisiana bounding channel on the west. Further, by about 1934, divided flow conditions were favorable for the formation of accretions to the foot of Stack Island and for the river to gradually and finally abandon the old Mississippi-Louisiana boundary channel west of Stack Island. By about the year 1954, this old abandoned channel had become attenuated and filled by alluvium (silt and sand), and the water ceased to flow therein and the Mississippi-Louisiana boundary thalweg channel became fixed as it existed at the time said water ceased to flow.

10. The enlargement of the former east chute channel of the Mississippi River and the corresponding abandonment of the west boundary channel was avulsive in nature and did not operate to change the state boundary at Stack Island. By reason of said avulsive action, the Mississippi-Louisiana state boundary became firmly and finally fixed along the locus of the middle of the former main navigation channel, sometimes called the thalweg, which former channel is identical with the west boundary of the lands described and known as Stack Island as described in Paragraph 5 above.

11. The State of Mississippi has, through long continued acts of assertion of sovereignty and jurisdiction and the exercise of dominion and control over the land commonly known as Stack Island, acquired sovereignty over and jurisdiction of Stack Island and all lands that are the subject of this controversy, and said lands lie within the territorial limits of the State of Mississippi without regard to the location of the thalweg by virtue of the Doctrine of Acquiescence. Mississippi has continuously

assessed and collected taxes on the subject property for more than 100 years. Louisiana has never assessed or collected taxes on Stack Island. Township surveys prepared by the United States General Land Office in 1826-27 have shown Stack Island as lying within the State of Mississippi. The General Land Office of the United States has further recognized Stack Island as being located within the State of Mississippi by virtue of a survey made in 1881 pursuant to an Act of Congress dated April 24, 1820, entitled "An Act Making Further Provision for the Sale of the Public Lands" and the acts supplemental thereto and by United States patents issued to Stephen B. Blackwell of Issaquena County, Mississippi, describing the property as being located within the State of Mississippi. Through its courts and law enforcement agencies, Mississippi has exercised sovereignty and jurisdiction over controversies involving ownership of the island and criminal activities on the island. Additionally, the general reputation in the community is that Stack Island is located in the State of Mississippi.

12. In the necessary and essential exercise of sovereign rights, the exact location of the boundary line between Mississippi and Louisiana in the area involved becomes of major and substantial significance to the respective states, in view of the great value of the lands involved, the necessity of determining the limits of each state's respective criminal jurisdiction, the fixing of the state boundary line for purposes of taxation, and for all other purposes incident thereto. Heretofore, it has not been necessary to determine with preciseness the exact location of such boundary line.

WHEREFORE, PREMISES CONSIDERED, defendant-counterclaimant respectfully prays:

1 That on a final hearing hereof, the complaint filed herein by the State of Louisiana be dismissed and that the plaintiff-counterdefendant, the State of Louisiana, be denied the relief sought therein.

2. That on a final hearing hereof, the boundary line of the State of Mississippi and the State of Louisiana be fixed in the abandoned bed of the Mississippi River along the line as set forth in Paragraph 5 above.

3. Defendant-counterclaimant also prays for such other and further relief, general or special, as the Court may deem meet and proper.

Respectfully submitted,

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